S.B.CIVIL MISC. APPEAL NO.3357/2005
UNITED INDIA INSURANCE CO. LTD. VS. ARSHAD IQBAL AND ORS.

25.7.2006

HON'BLE JUSTICE MRS.GYAN SUDHA MISRA

Mr. Pritam Bijlani for the appellant.

This matter was listed before me earlier and when the order was about to be dictated, the counsel insisted that he has some more judgments to cite and therefore it was ordered that the matter will be heard at length. The matter thereafter was treated as part-heard of this Court by a Coordinate Bench and therefore it has now been listed before me again for admission.

Having heard learned counsel for the appellant-Insurance Company as also on perusual of the impugned award passed by the Motor Accident Claims Tribunal, Baran, it could be noticed that a sum of Rs.1,90,000/- in favour of the claimant-respondent Nos.1 to 4 has been awarded on account of death of one Mohd. Ashfaq who met with an accident caused by the vehicle admittedly insured with the appellant-United India Insurance Company Ltd. The deceased died at the age of 60 years and considering the income and the multiplier, which was to be used for calculating the compensation, the sum awarded to his legal representatives, came to Rs.1,90,000/-.

The counsel for the appellant-Insurance Company has stated that although the quantum of compensation is not under challenge in this appeal, the appeal is fit to be entertained at the instance of the Insurance Company since the vehicle was allowed to be driven by a friend of the owner of the vehicle who was not a paid driver.

I find no substance in this plea of the counsel for the appellant as it is not the case of the Insurance Company that the driver, who was driving the vehicle, was not possessing a valid license. Once the validity of the driving license of the driver who was driving the vehicle is not under challenge, the objection taken by the appellant-Insurance Company cannot be sustained to the effect that it is not liable to pay the amount of compensation, although it was admittedly insured with the appellant-Insurance Company and the entire premium had been paid by the owner. The counsel however, still submitted that if the vehicle had been driven by the friend of the owner of the vehicle who was not a paid driver, the Insurance Company is not liable to pay the amount of compensation.

No such distinction could be noticed under the Motor Vehicles Act and the only legal ingredient in regard to driving license for fastening the liability on the owner of the vehicle would be if the driving license is not legal or valid. In the instant matter, the driver who was driving the vehicle was holding a valid driving license and therefore the plea of the Insurance Company that he being the friend of the owner of the vehicle, the claimant would not be entitled to receive compensation on behalf of the owner, has no substance. The appeal therefore, stands dismissed at the admission stage itself.

(GYAN SUDHA MISRA)J.

PCG